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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/639,533	08/16/2000	Klaus Heuring	KLA-0100	3103

7590 11/28/2003
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EXAMINER

KARMIS, STEFANOS

ART UNIT PAPER NUMBER

3624

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/639,533

Applicant(s)

HEURING, KLAUS

Examiner

Stefano Karmis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

1. This communication is in response to Applicant's election received on 15 September 2003.

Status of Claims

2. Claims 2-4 have been elected for examination. Claims 1 and 5-7 have cancelled in the current application. Therefore claims 2-4 are under prosecution in this application.

Summary of this Office Action

3. Applicant's arguments filed on 10 June 2003 have been fully considered but they are not persuasive. Therefore claims 2-4 are rejected as being unpatentable over Hodroff, U.S. Patent 5,592,376, and Applicant's request for allowance is respectfully denied.

Response to Arguments

4. Claims 2 and 4, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a credit rating system for extending a line of credit") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

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specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 2-4 are rejected in view of 35 U.S.C. § 101 because the claimed invention is directed to a non-statutory subject matter. Specifically the claims are directed towards an abstract idea.

Claims 2-4 represent an abstract idea that does not provide a practical application in the technological arts. There is no manipulation of data nor is there any transformation of data from one state to another being performed in "A method for scoring a credit applicant, in order to extend a line of credit to said applicant, in a business-to-business trading community wherein the traders offer products or services in trade, comprising:" The claimed invention does not appear to correspond to a specific machine or manufacture and thus encompass any product of the class configured in any manner to perform the underlying process. Consequently, the claims are analyzed based upon the underlying process and thus rejected as being directed to a non-statutory process. Appropriate correction of the preamble and body of the claim is required.

The following preamble is suggested:

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“A computer implemented method for scoring a credit applicant, in order to extend a line of credit to said applicant, in a business-to-business trading community wherein the traders offer products or services in trade, comprising: ---”, or something similar.

The following body is suggested:

“electronically establishing a product of value score for said... - - -“ or something similar.

“inputting said product value score and said cash score value into a registry and a computer means to mathematically manipulate said scores to produce a barter credit score”

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 2 and 4, the term “and/or” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

For examining purposes, the Examiner interprets the term in the claims to possess the “or” meaning.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hodroff, U.S. Patent 5,592,376.

Regarding independent claim 2, Hodroff discloses a currency and barter exchange debit card and system which establishes a product value score for said products or services, based on desirability of said products or services offered for barter, wherein said products or services are of differing value (column 10, lines 10-24); establishing a cash value score based on the percent of barter offered by said applicant, which is comprised of product or service, the remainder of the trade comprising cash (column 10, lines 25-27 and column 1, lines 53-62); inputting said product value score and said cash score value into a registry and mathematically manipulating said scores to produce a barter credit score (column 14, lines 23-52 and column 9, lines 36-40).

Regarding independent claim 4, Hodroff discloses a currency and barter exchange debit card and system for assigning comparative values to said products or services based on relative value of said products or services in the trading community (column 10, lines 10-24).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hodroff, U.S. Patent 5,592,376.

Claim 3, Hodroff teaches establishing a product value based on demand and the actual products and services offered for barter as well as cash equivalents (column 4, lines 36-62) and inputting said product value score and said cash score value into a registry and mathematically manipulating said scores to produce a barter credit score (column 14, lines 23-52 and column 9, lines 36-40).

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Hodroff fails to teach establishing a product score based on estimated gross monthly sales, based on average gross monthly sales, the number of years in business, based on the number of years said applicant has been in business, and the sales process of said products or services as a percent above the lowest published price on the Internet for the same product or service. Official Notice is taken, that providing a product value is old and well known in the financial arts. Therefore it would have been obvious to one of ordinary skill in the art, at the time of the Applicant's invention, that the teachings of Hodroff could be modified to include the above mentioned product value techniques because they all provide an efficient manner in determining a relationship for a product value and improving on the overall flexibility of the system without modifying the scope of the invention.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Postrel, US Patent 6,594,640 Jul. 15, 2003. System for electronic barter, trading and redeeming points accumulated in frequent use reward programs.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Respectfully Submitted
Stefano Karmis
November 18, 2003



HANI M. KAZIMI
PRIMARY EXAMINER